

## REMARKS

This paper is responsive to a Final Office Action mailed July 10, 2008. Prior to this response, claims 1-4, 7-8, 11-15, 18-19, 22-25, 28, 31-35, 38, and 41-44 were pending. After amending claims 22-25, 28, 31-35, and 38, claims 1-4, 7-8, 11-15, 18-19, 22-25, 28, 31-35, 38, and 41-44 remain pending.

In Section 3 of the Office Action claims 22 and 32, and claims dependent from these claims, have been rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. The Office Action states that the recited "receiver" and "de-jitter module" are software constructs performing functionalities that do not manipulate any hardware or tangible entity, citing MPEP 2106.

The invention of claims 22 and 32 has been presented as an improvement to the prior art communication system presented in Figs. 10-13 as prior art. More explicitly, the claimed invention recites improvements in buffering of an RTP packet. Since the claims have been amended to recite the elements of system clocks, buffers, coder, and decoder, and since these elements are described and depicted as concrete and tangible, and because the claimed invention recites the performance of concrete, useful, and tangible results (i.e., synchronizing a clock), the Applicant requests that the rejection be removed.

In Section 5 of the Office Action claims 1, 3-4, 7-8, 11-12, 14-15, 18-19, 22, 24-25, 28, 31-32, 34-35, 38, and 40-44 have been rejected

under 35 U.S.C 102(e) as anticipated by Ueda et al. ("Ueda"; US 2004/0190459). The Office Action states that Ueda discloses all the limitations of claims 1, 12, 22, and 32 in paragraphs [0009-0010, 0074-0075, and 0122-0123].

The Office Action states that Ueda discloses the limitation of an index field in an RTP packet header, citing paragraphs [0009-0010], [0074-0075], and Fig. 25. In the *Response to Arguments Section*, the Office Action states that Ueda discloses the limitation of using the index to point to a PCR MPEG2TS randomly positioned in the RTP packet payload, citing 504, Fig. 25, [0095]. The Office Action states that the storage area is maintained by using indexes (Fig. 4, [0095], and [0099]. This rejection is traversed as follows.

Paragraphs [0009-0010] in Ueda disclose a conventional process where MPEG2 TS packets are carried in an RTP packet. The process generates a timestamp from the PCR field, which is included in the RTP header. These paragraphs do not disclose a timestamp index carried in an RTP packet header, or a timestamp index that points to a PCR MPEG2TS randomly positioned in the RTP packet payload.

Ueda's paragraphs [0074 and 0075] disclose a transmission process that generates an RTP packet by adding an RTP header to a TS (Fig. 1). The RTP header includes an RTP timestamp and RTP sequence number. A reception process depacketizes the payload from the RTP packet. A timer 130 is used to measure the arrival times and arrival time jitter is computed. These paragraphs do not disclose a timestamp index carried in an RTP packet header, or a timestamp index that points to a PCR MPEG2TS randomly positioned in the RTP packet payload.

Paragraph [0099] discloses a management means that stores a payload in a buffer, and records the start address, data length, and RTP header. An index maintains a correspondence between the stored information and an RTP sequence number. The sequence numbers permit the stored packets to be arranged in the correct order, in the event they are received at incorrect times due to the effect of the network.

Paragraphs [0095] and [0099] do not disclose a timestamp index carried in an RTP packet header, or a timestamp index that points to a PCR MPEG2TS randomly positioned in the RTP packet payload.

Paragraph [0095] describes a storage area for storing information concerning RTP packets, which is managed by an index. The information stored includes headers, start addresses, and data lengths. The Applicant notes that Ueda does not disclose a PCR MPEG2TS stored in the storage area. The *Advisory Action* states that Ueda discloses accessing an index field in the header, and using the index field to point to a PCR MPEG2TS randomly positioned in the RTP packet payload, citing paragraph [0095]] and Fig. 25 - 504. Paragraph 0095 states:

[0095] The queue 122 has a plurality of storage areas each used for storing information on an RTP packet. The storage areas are managed by using indexes. The information on an RTP packet includes the header of the RTP packet, the start address of the payload included in the RTP packet and the data length of the RTP packet. As described above, the payload is stored in the reception buffer 121.

The above-cited paragraph does *not* state that there is an index field stored in an RTP header, as cited in the claimed invention. The above-cited paragraph does *not* state that the disclosed index is

carried as a timestamp packet index in an RTP packet header, as cited in the claimed invention. Alternately stated, the management of a storage area by an index does not mean that the index is carried in a packet header. And even if Ueda's index was carried in a header, there is no language or drawings in the Ueda reference stating that Ueda's index is a timestamp index, that Ueda's index points to a PCR MPEG2TS, or that the index points to a randomly positioned PCR MPEG2TS.

Fig. 25 is a diagram showing the configuration of RTP process unit 500 employed in a conventional communications apparatus [0008]. Reference designator 504 is described as PCR registers. Packet synthesis unit 506 generates RTP a timestamp from the value of the PCR filed stored in the PCR register 504 [0010]. These paragraphs do not disclose a timestamp index carried in an RTP packet header, or a timestamp index that points to a PCR MPEG2TS randomly positioned in the RTP packet payload. Paragraphs [0008-0010] state:

[0008] Next, the RTP process unit 500 is explained in detail. FIG. 25 is a diagram showing the configuration of the RTP process unit 500 employed in the conventional communication apparatus.

[0009] In this case, in accordance with the RFC 2250, an RTP packet having an MPEG-2 transport stream (referred to hereafter simply as an MPEG2-TS) as a payload is required to include an RTP timestamp field in the RTP header as a field having a value synchronized to the data stored in a PCR (Program Clock Reference) field of a TS packet, which is enclosed in the RTP packet as a portion of the RTP payload.

[0010] In the RTP process unit 500, when a TS packet generated by an MPEG-2 encoder 311 is supplied to an encoder interface (I/F) 312, the TS packet is passed on to a TS header checker 502, which checks the header of the TS packet to detect a PCR field. The TS header checker 502

stores the detected PCR field in PCR registers 504 and temporarily stores the TS packet in a TS buffer 505. A packet transmission control unit 503 manages information such as the number of input TS packets. As conditions for a packet transmission are all satisfied, the packet transmission control unit 503 issues a request for a transmission of an RTP packet to a packet synthesis unit 506. At this request, the packet synthesis unit 506 generates a timestamp from the value of the PCR field stored in the PCR registers 504. The packet synthesis unit 506 also generates the RTP packet including an RTP payload and an RTP header. The RTP payload includes the TS packets stored in the TS buffer 505 and the RTP header includes the generated timestamp in the RTP timestamp field of the RTP header.

The Applicant is not intending to broadly claim the use of a timestamp. The timestamp is prior art. Rather, the claims are narrowly tailored to recite that the PCR MPEG2TS can be randomly positioned in an RTP packet, if a timestamp index is embedded in the packet header. The timestamp index is used to find the position of the PCR MPEG2TS. The Applicant respectfully requests that the specific language being relied upon by the Examiner be cited. Ueda's Fig. 25 ([0008-0010]) and [0095] cannot be used to support the assertions made by the Examiner. Without support for the Examiner's assertions, a *prima facie* case has not been made in support of the rejection.

Thus, none of the above-cited sections from Ueda describe a process that accesses an index field in a RTP packet header, or that uses the index to locate a PCR MPEG2TS randomly positioned in the RTP payload (claims 1, 22, and 41). Neither does Ueda describe a process that encapsulates an index field to a RTP packet header for use in locating a

PCR MPEG2TS that is randomly positioned in the RTP payload (claims 12, 32, and 43).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Ueda does disclose every limitation of claims 1, 12, 22, and 32. Since Ueda does not disclose every limitation of the claimed invention, he cannot anticipate. Claims 3-4, 7-8, and 11, dependent from claim 1, claims 14-15 and 18-19, dependent from claim 12, claims 24-25, 28, and 31, dependent from claim 22, claims 34-35 and 38, dependent from claim 32, claim 42, dependent from claim 41, and claim 44, dependent from claim 43, enjoy the same distinctions from the cited prior art.

In Section 24 of the Office Action, claims 2, 13, 23, and 33 have been rejected under 35 U.S.C. 103(a) with respect to Ueda in view of Ando et al. (“Ando”; US 7,274,863). The Office Action acknowledges that Ueda fails to disclose a timestamp resolution of 500 ns, but that Ando discloses this feature, and that it would have been obvious to modify Ueda to include the teachings of Ando to synchronize the timestamp with the value stored in the TS packet. This rejection is traversed as follows.

The obviousness rejection is based upon the assumption that that Ueda discloses all the limitations of the base claims 1, 12, 22, and 32. However, even if Ando’s timestamp resolution is added to Ueda, the combination of references fails to disclose the limitations of accessing an index field in a RTP packet header, or using the index to locate a PCR MPEG2TS that is randomly positioned in the RTP payload, as recited in

Applicant's claims 1 and 22. Neither does the combination of references describe a process that encapsulates an index field to a RTP packet header for use in locating a PCR MPEG2TS that is randomly positioned in the RTP payload, as recited in claims 12 and 32.

Further, the motivation of synchronization does not suggest modifications to Ueda that would make the Applicant's claim limitations obvious, based on either the Ando reference, or what was well known at the time. Synchronization is a function that is performed in the prior art. However, unless it can be shown that Ando suggests modifications to Ueda that include a timestamp index, embedded in a header and pointing to a randomly positioned PCR MPEG2TS, then Synchronization cannot be said to suggest modifications that make the claimed invention obvious. Since the combination of references neither explicitly discloses all the claim limitations, nor suggests modification to Ueda that would make all the limitations obvious, the Applicant requests that the rejection of claims 2, 3, 23, and 33 be withdrawn.

The *Response to Arguments* Section of the Office Action states that the Applicant's arguments have been directed to the references individually, citing *In re Keller*. The Applicant respectfully disagrees. Rather, the Applicant argues that the *combination* of references does not comprise all the limitation recited in the claimed invention. The Applicant also argues that the Ando reference fails to suggest modifications to Ueda that make the claimed invention limitations obvious, and that what was known by one of ordinary skill at the time of the invention, in *combination* with Ueda and Ando, fails to suggest that the limitations missing from combining the references.

It is believed that the application is in condition for allowance and reconsideration is earnestly solicited.

Respectfully submitted,

Date: 10/7/2008

/Mali/  
Gerald Maliszewski  
Registration No. 38,054

Customer Number 55,286  
P.O. Box 270829  
San Diego, CA 92198-2829  
Telephone: (858) 451-9950  
Facsimile: (858) 451-9869  
gerry@ipatentit.net